

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WESTERN TEXAS
AUSTIN DIVISION**

COMMODITY FUTURES TRADING
COMMISSION,

PLAINTIFF,

v.

CHARLES H. MCALLISTER,

DEFENDANT.

CIVIL ACTION NO. 1:18-cv-00346-LY

PLAINTIFF CFTC'S STATUS REPORT

Plaintiff Commodity Futures Trading Commission (“CFTC”) hereby submits the following status report, and respectfully states:

1. On August 10, 2018, this Court granted Intervenor United States’ Motion to Intervene and to Stay Discovery, pending further order of this Court, in order to allow a parallel criminal prosecution to proceed against Defendant McAllister. (ECF No. 16.)
2. From September 30, 2019, to October 4, 2019, a criminal trial of McAllister was held in this Division. *See United States v. McAllister*, Case No. 1:18-CR-0016-LY (District of Western Texas, Austin Division) (“18-CR-16”). (18-CR-16, ECF Nos. 62, 65, 67, and 69.)
3. On October 4, 2019, the jury in the criminal matter returned a verdict against McAllister on all counts: two counts of wire fraud and one count of engaging in a monetary transaction in criminally derived property. (18-CR-16, ECF No. 72.)
4. On November 6, 2019, Plaintiff CFTC and Defendant McAllister submitted a joint status report, and advised the Court that they believed they could work together to reach a settlement agreement in this civil matter, and to submit a proposed consent order to the Court,

consistent with the anticipated criminal restitution award at Defendant McAllister's criminal sentencing. (ECF No. 18.) The parties requested the Court continue the stay of this matter for ninety (90) days after restitution was ordered to allow the parties a period of time to negotiate a settlement agreement after the sentencing hearing concluded and restitution was ordered. (*Id.*)

5. At McAllister's criminal sentencing on February 13, 2020, the Court ordered criminal restitution in the amount of \$16,186,212.56. (18-CR-16, ECF No. 100.)

6. On February 24, 2020, the Court ordered the parties in this civil matter to meet and confer regarding further action and submit a joint status report on or before May 13, 2020. (ECF No. 19.)

7. On February 26, 2020, McAllister filed a notice of appeal in the criminal matter. (18-CR-16, ECF No. 102.)

8. On May 1, 2020, Plaintiff CFTC contacted counsel for McAllister, Jimmy Ardoine, to discuss a draft proposed consent order. Mr. Ardoine advised that he was unsure whether Mr. McAllister intended for Mr. Ardoine to continue his representation in this matter, and Defendant McAllister was to notify Mr. Ardoine about whether he would continue his representation by Friday, May 8, 2020.

9. On May 7, 2020, the CFTC provided a draft proposed consent order to Mr. Ardoine for the purposes of expediting Mr. Ardoine's and Defendant McAllister's review in advance of the joint status report deadline.

10. Just before this filing, Mr. Ardoine advised the CFTC that Defendant McAllister has not made a decision regarding Mr. Ardoine's continued engagement. Therefore the CFTC files this status report solely on its own behalf.

Plaintiff CFTC is prepared to proceed as directed by the Court.

Dated: May 13, 2020

Respectfully submitted,

By: /s/ Jo Mettenburg
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been served on counsel via ECF on May 13, 2020.

/s/ *Jo Mettenburg*